



TULANE ENVIRONMENTAL LAW CLINIC

November 12, 2010

By U.S. Post and Email, [reg-comment@adeq.state.ar.us](mailto:reg-comment@adeq.state.ar.us)

166-003

Doug Szenher

Public Outreach and Assistance Division

Arkansas Department of Environmental Quality

5301 Northshore Drive

North Little Rock, AR 72118

Re: Triennial Review / Proposed Revisions of Arkansas Water Quality Standards

Dear Mr. Szenher,

This letter supplements the Ouachita Riverkeeper's July 30, 2010, comments on ADEQ's Triennial Review proposed revisions to Arkansas's Water Quality Standards. The July 30, 2010, comments stated that "ADEQ's Triennial Review process must redesignate Coffee Creek and Mossy Lake, tributaries of the Ouachita River, as Aquatic Life uses water bodies." For support, the comments cited, among other things, EPA's 2007 Use Attainability Analysis' finding that "[t]he waters of Coffee Creek and Mossy Lake have the potential to support aquatic life indicative of streams in the ecoregion." (EPA 2007 UAA, p. 4-1.)

The Ouachita Riverkeeper maintains the above stated position and further submits that 40 C.F.R. § 131.20(a) compels ADEQ to revise the Coffee Creek and Mossy Lake use variance and restore a fishable/swimmable designated use to those waters. Section 131.20(a) provides as follows:

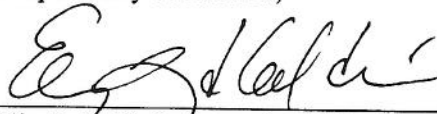
Any water body segment with water quality standards that do not include the uses specified in Section 101(a)(2) of the Act [i.e. fishable/swimmable uses] shall be re-examined every three years to determine if any new information has become available. If such new information indicates that the uses specified in Section 101(a)(2) of the Act are attainable, the State *shall revise* its standards accordingly.

The 2007 EPA UAA is new information that ADEQ has not previously evaluated. Coffee Creek and Mossy Lake are water bodies that have been stripped of the fishable/swimmable designation that is the default use for waters in the ecoregion. Because the 2007 EPA UAA indicates that the fishable/swimmable use designations are attainable in Coffee Creek and Mossy Lake, 40 C.F.R. § 131.20 compels Arkansas to revise its standards to remove the use variances so that Coffee Creek and Mossy Lake have the fishable/swimmable designated use.

Tulane Environmental Law Clinic

6329 Freret St., Ste. 130, New Orleans, LA 70118-6231 tel/ 504.865.5789 fax 504.862.8721 [www.tulane.edu/~telc](http://www.tulane.edu/~telc)

Respectfully submitted,



Elizabeth Livingston de Calderón, LA # 31443  
Tulane Environmental Law Clinic  
6329 Freret Street  
New Orleans, LA 70118  
Tel. No. (504) 862-8819  
*Counsel for the Ouachita Riverkeeper*

c.c. Lawrence Starfield  
EPA Deputy Regional Administrator, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
starfield.lawrence@epa.gov

Miguel Flores  
EPA Director of Water Quality Protection, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733  
flores.miguel@epa.gov

Grace Robiou  
Chief, EPA National Water Quality Standards Division  
USEPA Headquarters  
1200 Pennsylvania Avenue, N. W.  
Mail Code: 4305T  
Washington, D.C. 20460  
robiou.grace@epa.gov